

EARLY IMPLEMENTATION PROGRAM

PROPOSAL SOLICITATION PACKAGE

**STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES**

December 16, 2008

EIP PROPOSAL SOLICITATION PACKAGE

The California Department of Water Resources invites you to submit an EIP Project proposal. EIP funding comes from Proposition 1E and, in certain cases, from Proposition 84. Both measures were approved by the electorate on November 7, 2006.

PROPOSAL DUE DATE

March 2, 2009
Must be postmarked by this time and date.

PROPOSAL SUBMITTAL

Submit one electronic copy (followed by one hard copy) or two hard copies for each proposal. CD-ROM is preferred, either in MS Word compatible format or in a searchable PDF format with content copying enabled. Electronic copies may also be submitted on floppy disks, on a zip disk, or by e-mail. Hard copies or hard-copy attachments must be completely legible and suitable for copying.

To submit by mail:

California Department of Water Resources
P. O. Box 942836, Sacramento, CA 94236-0001
Attention: Len Marino

By hand delivery or overnight carrier:

Len Marino, DWR
3310 El Camino Avenue
Sacramento, California 95821

By e-mail:

lmarino@water.ca.gov

QUESTIONS? NEED ASSISTANCE? CONTACT:

Len Marino, Project Manager
Department of Water Resources
(916) 574-2639
lmarino@water.ca.gov

For an electronic copy of this Proposal Solicitation Package, please go to
<http://www.water.ca.gov/floodsafe/>.

Early Implementation Program

Proposal Solicitation Package

1. BACKGROUND

On November 7, 2006 California voters approved Propositions 1E and Proposition 84 which provided funds to Local Agencies¹ for, among other things: (a) repair, rehabilitation, reconstruction or replacement of levees, weirs, bypasses and facilities of the State Plan of Flood Control and (b) improving or adding facilities to the State Plan of Flood Control to increase levels of flood protection for Urban Areas. This program applies only to certain portions of the Central Valley and adjacent areas. The Early Implementation Program (“EIP”) funds work to be done before the completion of the Central Valley Flood Protection Plan. To qualify under this PSP, eligible Projects must have completed environmental permitting such that a Funding Agreement can be executed in June 2009 and the Project must be ready for construction to begin by November 2009.

On September 19, 2008 the Department of Water Resources published draft Early Implementation Program *Guidelines* (cited here as the *Guidelines*). These *Guidelines* offer details on the purpose, process and requirements of the EIP. The draft *Guidelines* were made available for public comment for 30 days. The Department collected, analyzed and integrated all comments and on December 16, 2008, after Director approval, issued the final version of the *Guidelines*. The *Guidelines* are incorporated as part of this PSP. All definitions of terms and all requirements for Projects under the *Guidelines* apply equally to this PSP. A copy of the final EIP *Guidelines* is available at <http://www.water.ca.gov/floodsafe/news/>.

This PSP is a synopsis of the application process and *Guidelines* requirements, an application timeline, other information about applying for Project funding and Project application forms. If the PSP does not cover requirements discussed in the *Guidelines* the Applicant is not excused from performance; the *Guidelines* control.

2. ELIGIBLE APPLICANTS

An Applicant must be a Local Agency seeking to repair, rehabilitate, reconstruct, replace, improve or add to the facilities of the State Plan of Flood Control (or secure funds to design such repairs or improvements). Applicants may submit proposals for one or more Improvement Projects that are consistent with the Area Plan and Area Project cost limits.

3. AVAILABLE FUNDS

Proposition 1E authorized three billion dollars (\$3,000,000,000) to repair, improve or add levees, weirs, and bypasses and facilities of the State Plan of Flood Control. Proposition

¹ See Section 3 below.

84 also makes some funding available to the Department for flood protection and related purposes.

The Area Project spending cap on Improvement Projects is \$200 million. Repair work does not count against this cap. In Urban Areas, the Department will fund no more than two improvement-related Area Projects per Area from this program.

4. APPLICATION AND SELECTION PROCESS

Applications must be submitted by March 2, 2009. All timely applications will first be screened for completeness. Complete applications will be reviewed to determine whether they meet the Project eligibility criteria, using the eligibility criteria listed below. For more detailed information regarding the eligibility criteria see the *Guidelines*, pages 20-35.

Once an application is deemed complete and eligible, it will be ranked by the Department's ranking review team using the system described in the *Guidelines* at pages 35-38. The highest ranking Projects will be reviewed to estimate cost-sharing. The starting point for the Department's cost-sharing review will be the Cost Sharing Recommendation and Report submitted by the Applicant.

Once cost-sharing is estimated, the highest ranked Projects are selected and the available funds are exhausted, the Department will issue tentative award letters to successful Applicants. Successful Applicants must enter into a Funding Agreement with the Department before any funds will be disbursed.

Tentative award letters will be issued May 4, 2009. Between May 4, 2009 and June 30, 2009, the Local Agency will develop a more detailed Scope of Work and the Department and Local Agency will negotiate a Funding Agreement. The Funding Agreement will be executed on or before June 30, 2009.

Consistent with the *Guidelines*, the Department may, at its discretion, issue an additional PSP if applications submitted under this PSP do not use all available funding.

A. Eligible Projects

To demonstrate eligibility, the Applicant must provide detailed information demonstrating how its Project meets all eligibility requirements. Since the eligibility criteria differ somewhat for Repair Projects and Improvement Projects, they are set out separately in this section. All Projects will also have to meet additional eligibility criteria which are set out in Section iii below.

i. Repair Projects

To be an eligible Repair Project the Applicant's Project must:

- Repair, rehabilitate, reconstruct or replace levees, weirs, bypasses and facilities (or consist of work to design such a repair).
- Involve levees, weirs, bypasses and facilities that are existing components of the State Plan of Flood Control.
- Not *increase* the Design Level of Performance.
- Not be for Routine Maintenance work
- Provide a certification from a registered civil engineer, demonstrating:
 - The original Design Level of Performance for the Project
 - The current level of performance; and
 - The Design Level of Performance after the repair.

ii. Improvement Projects

In order to be an eligible Improvement Project the Applicant must provide sufficient information to show that both of the following are true:

- The Project would improve or add facilities to the State Plan of Flood Control (or consist of the work to design such improvements);
- The Project would increase the Level of Protection for an Urban Area;

The Applicant must also provide sufficient information for DWR to make the findings required by SB 5 and codified at Cal. Water Code § 9613 and described below:

- Finding 1: The improvements are necessary and require State funding before the completion of the Central Valley Flood Protection Plan prepared pursuant to Section 9612.
- Finding 2: The improvements will reduce or avoid risk to human life in one or more Urban Areas.
- Finding 3: The improvements will not impair or impede future changes to regional flood protection or the Central Valley Flood Protection Plan.
- Finding 4: The improvements will be maintained by a local agency that has committed sufficient funding to maintain both the existing and improved facilities of the State Plan of Flood Control.
- Finding 5: The affected cities, counties and other public agencies will have sufficient revenue resources for the operation and maintenance of the facility.

- Finding 6: Upon the allocation of funds for a Project, the proposed Project is ready for implementation.
- Finding 7: The improvements comply with existing law.

iii. Additional Eligibility Requirements

- Readiness: Applicants must demonstrate that they will complete environmental permitting such that a Funding Agreement can be executed in June 2009 and the Project must be ready for construction to begin by November 2009.
- Area Plan:
 - If the Repair Project protects a Non-Urban Area, it will restore or partially restore the Design Level of Performance, there is an Area Plan to restore or partially restore the Design Level of Performance to the Area, and the Repair Project fits into the Area Plan.
 - If the Repair Project or Improvement Project protects an Urban Area, there is an Area Plan for achieving 200-year or better Level of Protection for the Area, the Project fits into the Area Plan, and a sound financial strategy exists for achieving 200-year Level of Protection prior to 2025.
- Multiple Objectives: The Project takes advantage of any feasible opportunities to provide additional room for the river to meander, enhancing channel capacity, reducing maintenance, and providing regional flood-risk management and environmental benefits.
- For Levee In-Place Improvements Only: If the Project would repair or improve a levee in place, it is because it is clearly infeasible to move the levee and/or there are no significant flood risk management benefits to moving the levee.
- Economic Feasibility:
 - For Repair Projects that will not protect an Urban Area: Project benefits exceed the State's costs.
 - For Repair or Improvement Projects that will protect an Urban Area: The Project is economically feasible, taking into account both local and system-wide benefits.
- Most Cost-Effective Alternative: The Local Agency has demonstrated that it has selected the most cost-effective feasible alternative for ensuring adequate flood protection.

➤ Financial Plan:

- The Local Agency has a sound financial plan to fund its cost-share to build the Project;
- The Local Agency has a sound financial strategy and plan to operate and maintain the flood facilities in the Area; and
- The Local Agency has a realistic Area Plan and supporting financial plan.

B. Ranking

All eligible Projects will be ranked according to the Ranking system detailed in the *Guidelines* at pages 35-38. The highest ranked Projects will be selected for funding, subject to available funds based on an estimate of the total Project cost and the estimated State cost-share.

In the unlikely event that there is enough money to fund every complete and eligible Project, the Department reserves the right to set a minimum threshold of ranking points that a Project proposal must meet in order to merit funding.

C. Cost Sharing

The State will determine the State cost-share using a four-step process:

- The Applicant provides the state with its Cost-Share Recommendation and Report (See *Guidelines*, Appendix A).
- The State reviews the Applicant's Cost-Share Recommendation and Report and, if necessary, will request additional information from the Applicant.
- The State will determine the overall State cost-share percentage. This will vary depending on whether the Project is a Repair Project in a Non-Urban Area, a levee described in Water Code § 8361, or a Repair or Improvement Project in an Urban Area. This will also depend on whether the Project offers Supplemental Benefits, incorporates a Setback Levee or meets other goals articulated in the *Guidelines* or whether the Project is a proposal for design work only.
- The State's supplemental cost-share will be capped at the State Supplemental cost-share capped discussed in the *Guidelines*.

5. APPLICATION TIMELINE

A. Anticipated Schedule

The following is the anticipated schedule for the EIP application and review process:

December 16, 2008	EIP <i>Guidelines</i> approved by the Director, finalized and release to the public.
December 16, 2008	PSP released to the public.
January 20, 2008	Public Applicant Assistance Workshops.
March 2, 2009	Proposals due by 3:00 p.m. (or postmarked)
May 4, 2009	Department notifies Local Agencies of funding decisions.
May 4-June 30, 2009	Department and Local Agencies develop agreements; Local Agency develops work plan.
June 30, 2009	Last day for Funding Agreement to be executed. Sponsor begins work.

6. PREPARING THE PROPOSAL

The application must include:

- An application cover sheet that provides an overview of the Project;
- A statement identifying the Applicant's representatives;
- A statement concerning the Applicant's legal authority to enter into a contract with the State of California, implement a flood protection program, and levy any assessments and charges that will support the Applicant's cost-share;
- A resolution authorizing filing of the application and designating a representative to sign the application;
- Documentation that provides sufficient information to demonstrate that the proposed Project meets the relevant criteria and, where applicable, allows the Department to make the findings required by SB 5;
- Documentation that provides sufficient information for the Department to rank the Project using the ranking system described in the EIP *Guidelines*;
- A statement by a registered professional civil engineer certifying review of the information presented in support of the application and the Level of Protection or Design Level of Performance;

- A statement of expected Project costs and proposed financing;
- An analysis of the costs and benefits associated with the Project;
- The Area Plan with a separate cost, schedule and cost-sharing description for each Area Project including phases, if applicable;
- A Financial Plan;
- A Cost-Share Recommendation and Report;
- Evidence that the Applicant has met (or will meet before the Funding Agreement is executed) the Labor Code compliance requirements applicable under California law;
- A statement of loans from other sources or bonds that are associated with the Project financing plan and a statement of repayment method and loan security for such other financing sources; and
- A checklist of attachments.

7. HOW TO SUBMIT A PROPOSAL

Prepare the attached application form. All items are required information. If an item does not apply, provide complete justification for not providing the information. Append all required attachments and other submitted material.

For an electronic submittal (preferred):

- One copy of each electronic item must be submitted by the deadline.
- One hard copy of each electronic item must be submitted by three days (postmarked) after the deadline.
- The application form must be in electronic format.
- Electronic format is preferred for attachments.
- Electronic attachments should be in individual files.
- Hard-copy plans and other graphic material must be submitted full size.
- Hard-copy attachments must be completely legible and suitable for copying.
- The preferred format for electronic submittals is on a CD-ROM, in MS Word compatible format or in a searchable PDF format with content copying enabled.
- Applications may also be submitted by e-mail.

For a hard copy submittal:

- Two copies of each hard-copy item must be submitted in person or postmarked by the deadline.
- The application form may be hard copy.
- Plans and other graphic material must be submitted full size.

- Hard copies or hard-copy attachments must be completely legible and suitable for copying.

8. CONFLICT OF INTEREST AND CONFIDENTIALITY

All participants are subject to State and Federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Applicable statutes include, but are not limited to, Government Code, Section 1090, and Public Contract Code, Sections 10410 and 10411.

Applicants should note that by submitting an application, they will waive their rights to the confidentiality of that application, though Department staff will endeavor to keep all applications confidential until Project selection. After the Projects are selected, all applications (those selected *and* those not) will be public documents.

PROPOSAL FOR EIP PROJECT

Project Information

Title of Project :

Short Description :

:

Applicant Agency

Legal Name:

Mailing Address:

City, State, Zip Code:

Telephone: ()

Fax: ()

E-Mail:

Authorized Representative

Name:

Title:

Telephone: ()

Fax: ()

E-Mail:

Alternate Contact

Name:

Title:

Telephone: ()

Fax: ()

E-Mail:

Cities/Communities in
the Protected Area:

County :

Members of Congress

Name, District No.:

Name, District No.:

State Senators

Name, District No.:

Name, District No.:

Members of the State Assembly

Name, District No.:

Name, District No.:

Resolution No. _____

Resolved by the _____ of the
(Name of Agency's Governing Body)

(Name of Agency)

That pursuant to and subject to all of the terms and provisions of California Public Resources Code Section 5096.21 and/or 75030 application by this _____
(Type of Agency)

be made to the California Department of Water Resources to obtain funding for

(Project Title)

The _____ of the
(Authorized Representative)

(Type of Agency) **is hereby authorized and directed**

to prepare the necessary data, make investigations, sign certifications required as part of the application, and sign and file such application with the California Department of Water Resources.

***Passed and adopted* at the regular meeting of the**

(Name of Agency's Governing Body) **of the**

(Name of Agency)

on _____.
(Date)

Authorized Signature _____

Printed Name _____

Title _____

Clerk/Secretary _____

EIP Applications - Certifications and Signatures

(Name of Agency)

hereby applies to the California Department of Water Resources for funding in the amount of \$_____ as authorized by Section 5096.821 and/or 75030 of the California Public Resources Code for the purpose of constructing the flood control repair or improvement work identified herein as

(Title of Project)

On behalf of the Applicant, I certify the following:

- * During the lifetime of any agreement resulting from this proposal, applicant will have a Labor Compliance Program complying with the California Labor Code.
(Project sponsors will be required to provide evidence of such a Program.)
- * Applicant has sufficient funds or other resources to finance the proposed percentage of the cost of the Project and to operate, maintain, repair, rehabilitate, or replace the Project as long as necessary. (Project sponsors will be required to provide a finance plan.)
- * If Applicant is awarded funding and becomes sponsor of this Project, applicant will (1) operate, maintain, repair, rehabilitate, and replace the Project facilities as needed in perpetuity, or until the Department of Water Resources agrees in writing that such services are no longer needed, and (2) provide a maintenance plan satisfactory to the Department of Water Resources.

By _____ Date _____
(Signature of Authorized Representative)

(Printed Name of Authorized Representative)

(Title)

Attorney's Certification

(The applicant's attorney shall answer the following questions regarding this proposal and where indicated, shall cite statutory authority or other references).

*** Is the Applicant a political subdivision of the State of California? ()Yes ()No**

Citation:_____

*** Does the Applicant have legal authority to enter into a funding contract with the State of California? ()Yes ()No**

Citation:_____

*** What steps are required by law for the Applicant to contract with the State?**

Citation:_____

*** What is the statutory authority under which the Applicant may obtain funds for the purpose, amount, and duration requested?**

Citation:_____

*** What is the statutory authority under which the Applicant was formed and is authorized to operate?**

Citation:_____

*** Is the Applicant required to hold an election before entering into a funding contract with the State? ()Yes ()No**

Citation:_____

*** Will a funding agreement between the Applicant and the State be subject to review and approval by other governmental agencies? ()Yes ()No**

Identify all such agencies:_____

Citation:_____

*** Describe any pending litigation that impacts the financial condition of the Applicant or the operation of flood management facilities. If none is pending, so state.**

*** Does the Applicant have legal authority and jurisdiction to implement a flood control program at the Project site and in the protected area? ()Yes ()No**

Citation:_____

I certify that I am a duly qualified and licensed attorney in California representing the applicant agency and that I have answered the questions on this page and the preceding page to the best of my knowledge.

By_____ **Date**_____
(Signature of Applicant Agency's Attorney)

(Printed Name of Applicant Agency's Attorney) *(Title)*

(Name of Applicant Agency)